

FAN FREEDOM PROJECT ★ ★ ★

Testimony of Jon Potter President, Fan Freedom Project

Before the State of Connecticut General Assembly General Law Committee February 24, 2011

Members of the General Law Committee:

My name is Jon Potter and I am President of the Fan Freedom Project, a consumer membership organization that launched two days ago to promote the rights of live event fans nationwide. The Fan Freedom Project's first initiative is our Ticket Choice Campaign, which has a simple goal: to protect fans' basic rights to buy, sell or share tickets – when they want; to whom they want; in whatever market they choose and at any price they choose.

Thank you for the opportunity to submit written testimony today in support of Raised Bill 6298, which will ensure that Connecticut citizens enjoy Fair Sales of Tickets to Entertainment Events.

Ironically, in previous debates on this issue, the consumer voice was noticeably missing. Venues, ticket agencies, re-sellers and marketplaces voiced their positions, but no one spoke for consumers. On behalf of fans across the country but especially in Connecticut, I am pleased to submit testimony today and to urge passage of this important consumer bill.

America is the land of individual rights and property rights, and of consumer protection. We buy and sell cars, televisions, golf clubs, and Beanie Babies in retail stores, used car lots, consignment shops, yard sales and over the Internet – and generally the market works well for buyers and sellers.

But in the ticketing market, our rights to buy and sell tickets are being undermined, as Ticketmaster, event producers and sports teams are using the Internet and technology against consumers through **restrictive paperless ticketing**. **Restrictive paperless tickets** are distributed under the guise of innovation and convenience – and even environmental stewardship. But, make no mistake, they are aimed squarely at limiting or taking away our rights as consumers to share or resell event tickets.

Restrictive paperless ticketing takes two forms:

- ***Ticket transfers prohibited:*** In this case, a consumer purchases a ticket for an event with a credit card, and must go to the venue with the same credit card and a photo ID. A credit card swipe at the gate produces a slip confirming seat location the location. If the purchaser cannot attend, the ticket cannot be transferred, sold or given away.
- ***Restricted transfer – often called closed-loop ticketing:*** This system gives primary ticketing agencies and producers control over ticket gifts, sharing and re-

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sales, by allowing transfers only on the primary seller's proprietary exchange. This exchange often has price floors which are unrelated to the ticket's actual market value.

Producers' and ticketing agencies claim that this technology helps consumers, ensuring that tickets are not misplaced or counterfeit. They contend that the burdensome entry process allows "true fans" to get into an event by prohibiting scalping. But **restrictive paperless ticketing** is simply a clever way for sports teams, event producers, venues and ticketing agencies to expand their control of consumers even after a ticket has been purchased. **Restrictive paperless ticketing** eliminates competition, reduces consumer choice and imposes unnecessary burdens on event attendees – the citizens of Connecticut who simply want a fair shake when they pay good money to attend live events.

Imagine buying a car and you are prohibited from reselling it or required to resell it through the same dealer – and at a price the dealer sets. Imagine buying a house and being told that the builder's selling agent – his brother – is the only agent you can employ when you sell your house five years later? This is exactly what Ticketmaster and others are trying to do with the ticket market – and it is NOT consumer-friendly.

Yet this is the reality that ticket purchasers in Connecticut could face without the right protections in place. To permit Ticketmaster and producers – after a consumer has paid full price (including multiple fees) – to characterize a ticket as a license and maintain a continuing right to prohibit resale, or to mandate that resale occur only on their owned or preferred exchange is simply wrong. It would add insult to injury when a consumer is unable to attend an event because of unanticipated work, babysitter snafu, car trouble or a family emergency.

Lastly, when resale is permitted, Ticketmaster and its clients often impose anti-consumer price floors, thus limiting consumers' opportunity to buy or sell tickets below face value while enabling them to purchase tickets priced above face-value. This one-sided exploitation of digital technology clearly harms consumers, who today are often able to purchase tickets on the secondary ticketing market that are priced below face value – for as little as 11 cents for one recent NBA game played in New Jersey.

The secondary ticket markets offer competition and transparency, which translates into lower cost, greater convenience and better service for consumers. In addition, competition in the secondary market ensures that service fees remain reasonable, that customer service is accessible, and that innovation continues to benefit consumers. In fact, secondary ticket markets provide what *Sports Illustrated* recently called "the fan's revenge" – a marketplace of pure supply and demand. (It also does not carry a negative consequence to the venue or team which has already been paid full price for that ticket.)

To be sure, the use of technology in the ticketing market is not de facto a bad idea. The remarkable technological innovations of the Internet era have opened new doors of opportunity and convenience for consumers. On StubHub, FanSnap, TicketNetwork and through local ticket brokers, consumers have continuous access to events even after they have sold out; ticket prices far below face value for major professional sports; the ability to sell tickets if a purchaser gets sick and cannot attend an event; and remarkably high-quality customer service. But

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technology can also be used, as in the case of ***restrictive paperless ticketing*** to exploit consumers by taking away their rights and increasing costs and burdens.

Imagine you are an UConn Huskies season ticket holder. You cannot possibly attend every game on the basketball schedule. So under the Ticketmaster model of restrictive paperless tickets, you would have to absorb the costs of unattended games, even though there are buyers who are happy to pay the fair market price (sometimes higher, but often *lower* than face value) for your tickets.

Imagine you've purchased premium tickets for a major event at the XL Center and an illness or other emergency prevents you from attending. Even though the event may be sold out and fans are clamoring to attend, you may not be able to sell them.

Or, imagine you're the one clamoring to attend that sold out show.

These are the reasons why we created the Fan Freedom Project and the Ticket Choice Campaign – to fight for fans' rights and expose anti-consumer efforts to strip away our freedom to buy and sell tickets that we purchase and we own.

Raised Bill No. 6298 protects consumer rights and the vibrant, competitive and transparent secondary ticket market, while prohibiting practices that limit their convenience and choice. I urge you to support its passage. Let this be the year consumer rights prevail.

Thank you very much for allowing me to submit this testimony to the record.